

**JAMAL L. SMITH, in his official capacity as
EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION,
Complainant,**

v.

**PARTNERS IN HOUSING DEVELOPMENT CORPORATION and
THE ORLEANS,
Respondent.**

**NOTICE OF FINDING and
ISSUANCE OF CHARGE**

The Executive Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following finding with respect to the above-referenced case. There is reasonable cause to believe an unlawful discriminatory housing practice has occurred. Therefore, the Executive Director issues this Charge of Discrimination per 910 IAC 2-6-6(b).

On August 9, 2011, [REDACTED] ("Complainant") filed a complaint with the Commission against Partners in Housing Development Corporation and The Orleans ("Respondent") alleging unlawful discriminatory housing practice based on disability, in violation of the Indiana Fair Housing Act (IC 22-9.5 et seq.), the Indiana Civil Rights Law (IC22-9 et. seq.) [REDACTED]. The Commission, therefore, has jurisdiction over the parties and subject matter of this complaint.

An investigation has been completed. All parties have been interviewed and have had an opportunity to submit evidence. Based on the Final Investigative Report and a full review of the relevant files and records, the Executive Director now finds the following:

The issue before the Commission is whether Complainant was denied a reasonable accommodation for her disability. In order to prevail on such a claim, the Complainant must prove 1) she has a physical or mental impairment that substantially limits a major life activity; 2) Respondent knew or should have known that Complainant required a reasonable accommodations in Respondent's rules, policies, practices or procedures in order to equally enjoy the dwelling and 4) Respondent denied or unreasonably delayed the requested accommodation without a showing of undue burden.

It will be presumed for purposes of this analysis that Complainant has a disability as that term is defined by the relevant civil rights statutes. On May 24, 2011, Complainant's doctor, [REDACTED]

██████████, wrote on a prescription form that Complainant could benefit from a companion animal to help with chronic anxiety/depression. On May 26, 2011, ██████████ wrote on letterhead that Complainant would benefit from having a companion animal. Both documents were submitted to Respondent. Since neither of these was on Respondent's "Medical Pet Necessity Verification" form, Respondent sent the form to ██████████ for her completion. Respondent's Verification form, to be completed by a doctor, service care provider or social service worker, asks the following yes-no questions of the provider:

1. It is my professional opinion that said person would not be able to enjoy full use of the apartment without the support and companionship of a pet.
2. Would you be willing to testify to this statement in a court of law?

Respondent states that the answer to both of these questions must be "yes" or the tenant will be denied the accommodation of a service/companion animal. Complainant's doctor originally answered "no" to the first question and "yes" to the second. Respondent denied the requested accommodation, as a result. Complainant resubmitted the form to her doctor, and the doctor changed her response to "yes" on the first question and "no" on the second. Again, Respondent denied the accommodation. While Respondent has the right to request evidence of a tenant's need for an accommodation, a requirement that the tenant's doctor agree to testify in a court of law to this fact goes beyond what is necessary to establish such need. There is reasonable cause to believe that Respondent's policy is in violation of the Indiana Fair Housing Act and that Complainant has suffered injury as a result.

As permitted by 910 IAC 2-6-6(h), any party to this complaint may elect to have the claims asserted in this charge decided in a state court, in lieu of an administrative proceeding under 910 IAC 2-7. Such an election must be made no later than twenty (20) days after service of this Notice of Finding and Charge. The notice of election must be filed with the Commission and served on the Executive Director, the Respondent and Complainant.

If such an election is not timely made, an administrative hearing of this matter will be held at a time and place determined by the Administrative Law Judge. Respondents shall have an opportunity to file an answer to this charge within thirty (30) days of service of this charge. ██████████ and any other person aggrieved by this alleged discriminatory practice may participate as a party in the administrative hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing.

If at any time following service of this charge Respondents intend to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondents must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3)

Date September 16, 2011

Jamal L Smith
Executive Director
Indiana Civil Rights Commission